

INITIAL STATEMENT OF REASONS

Section 1866. Definitions.

Specific Purpose of the Regulation

To provide the meaning of additional specific words and terms that are essential to these regulations.

Need for the Regulation

It was necessary to provide definitions for specific words and terms that are used extensively in these regulations as it eliminates the need for restating definitions at every instance of use.

Technical Documents Relied Upon

None.

Section 1866.1. Prerequisites to Receiving a Basic or Extreme Hardship Grant.

Specific Purpose of the Regulation

To further define the criteria to receive an apportionment under the DMP, as well as define the entities that may apply for DMP funding.

Need for the Regulation

Subsections (a)(1) through (a)(3): It was necessary to define the entities that can apply for DMP funding.

Subsection (b): It was necessary to update the referenced Education Code section to reflect the renumbering of the Education Code.

Subsection (c): It was necessary to specify that a district have a five year plan for the year being funded.

Technical Documents Relied Upon

None.

Section 1866.2. DMP Application for Basic Grant.

Specific Purpose of the Regulation

To establish the application process for receiving a DMP Basic Grant.

Need for the Regulation

It was necessary to incorporate the *Five Year Plan*, Form SAB 40-20, as a means of filing an application for purposes of funding the Basic Grant under the DMP.

Technical Documents Relied Upon

None.

Section 1866.3. DMP Application for Extreme Hardship Grant.**Specific Purpose of the Regulation**

To establish the application process for receiving a DMP Extreme Hardship Grant.

Need for the Regulation

It was necessary to incorporate the *Extreme Hardship Funding Application*, Form SAB 40-22, as a means of filing an application for purposes of funding the Extreme Hardship Grant under the DMP.

Technical Documents Relied Upon

None.

Section 1866.4. Five Year Plan Requirements.**Specific Purpose of the Regulation**

To establish the purpose for which the *Five Year Plan*, Form SAB 40-20, is filed and explains application acceptance guidelines.

Need for the Regulation

Paragraph 1 and Subsection (a): It was necessary to provide school districts with the purpose and requirements of the *Five Year Plan*, Form SAB 40-20, as well as defining the conditions of submitting a revised five year plan. It was also necessary to provide application acceptance guidelines and establish a window period for new and revised five year plans.

Subsection (b): It was necessary to provide specific guidelines to school districts submitting a new or revised five year plan for purposes of ensuring that the plans are in compliance with the law.

Technical Documents Relied Upon

None.

Section 1866.4.1. Permissible Use of the DMP Basic Grant.**Specific Purpose of the Regulation**

To provide specific criteria pertaining to what type of projects may be included on a five year plan and explains the uses of the Basic Grant apportionment.

Need for the Regulation

It was necessary to provide the criteria since current DMP regulations do not sufficiently address this issue. This regulation will assist school districts in determining the projects that can be placed on the *Five Year Plan*, Form SAB 40-20, and allow for improved planning for the next five fiscal years.

Technical Documents Relied Upon

None.

Section 1866.4.2. Calculation of Basic Grant and Apportionment of Basic Grant.**Specific Purpose of the Regulation**

To provide the calculation for the Basic Grant apportionment, and define a prorated basic grant apportionment.

Need for the Regulation

It was necessary to provide the method of calculating the Basic Grant apportionment for school districts and county superintendents of schools for purposes of funding the Basic Grant apportionment. Further, it was necessary to define a prorated basic grant apportionment for those instances where funding is unavailable.

Technical Documents Relied Upon

None.

Section 1866.4.3. District Deposit of Matching Share.**Specific Purpose of the Regulation**

To define the type of revenue a district may utilize in order to deposit its matching share contribution.

Need for the Regulation

It was necessary to define what revenue may be utilized when a district deposits the matching share into its district deferred maintenance fund. It was also necessary to establish the conditions if a district utilized a specific revenue for purposes of depositing its matching share contribution.

Technical Documents Relied Upon

None.

Section 1866.4.4. Carryover of Unmatched State Funds.**Specific Purpose of the Regulation**

To provide a mechanism for utilizing funds deposited but unmatched by the State, and explains how a district can obtain the use of these deposited funds for the next fiscal year.

Need for the Regulation

Since districts are required to deposit 100 percent of their matching share contributions and because the State funds its share on a prorated basis, there will be deposited district funds unmatched by the State. With the availability of this funding, it allows districts to utilize the funds for the next fiscal year deposit as long as the funds have not been reported. Once reported, the funds cannot be utilized.

Technical Documents Relied Upon

None.

Section 1866.4.5. County Superintendents of Schools Funding Limitations.**Specific Purpose of the Regulation**

To repeal this section.

Need for the Regulation

It was necessary to delete this section as it was more appropriate to relocate it elsewhere in these regulations.

Technical Documents Relied Upon

None.

Section 1866.4.6. Release of State Funds.**Specific Purpose of the Regulation**

To specify to county superintendents of schools the timeframe for the release of State funds and the process if the timeframe is not met.

Need for the Regulation

It was necessary to place the deadline in regulation. For the past two years, the deadline has been extended to November 30th, due to the annual apportionments (basic grant apportionments) being made later in the fall. Under the new deadline, districts have more time to make the required deposits, as they are more dependent upon the date of apportionment rather than a calendar date.

Technical Documents Relied Upon

None.

Section 1866.4.7. Failure to Deposit Matching Funds.**Specific Purpose of the Regulation**

To provide a process if a district does not deposit the maximum amount of matching funds.

Need for the Regulation

It was necessary to establish a process if less than the required district matching share contribution has been deposited. This process requires districts that do not deposit the maximum matching share contribution to submit a detailed report to the Legislature explaining how the district plans to meet its deferred maintenance needs without depositing the maximum amount.

Technical Documents Relied Upon

None.

Section 1866.5. Eligibility Requirements.**Specific Purpose of the Regulation**

To provide eligibility criteria for districts to obtain extreme hardship grants, and to delete existing language that is no longer valid.

Need for the Regulation

Paragraph 1, Subsections (a)(1) and (b)(1): It was necessary to provide the criteria for districts to obtain extreme hardship grants for critical projects reflected on the *Five Year Plan* for purposes of ensuring fair and equitable standards in determining a critical project.

Paragraph 2: It was necessary to add this into regulation for purposes of repairing or replacing existing school building components as authorized under the extreme hardship grant provisions.

It was necessary to delete the existing language as it no longer pertains to this section.

Technical Documents Relied Upon

None.

Section 1866.5.1. Application Submittals.**Specific Purpose of the Regulation**

To explain what documents are required for submittal in order for the OPSC to accept Extreme Hardship Grant applications.

Need for the Regulation

It was necessary to place into regulation the documents required in order for the OPSC to accept an Extreme Hardship Grant application and place it on the workload list for processing. This type of application process is practiced under the existing School Facility Program (SFP) administered by the OPSC. Further, it was necessary to establish a window period for accepting applications and provide criteria for submitting more than one application in a fiscal year.

Technical Documents Relied Upon

None.

Section 1866.5.2. Determination of Extreme Hardship Grant Amount and District Contribution.**Specific Purpose of the Regulation**

To explain how the Extreme Hardship Grant is determined for the first critical hardship project and multiple critical hardship projects.

Need for the Regulation

It was necessary to add this section to assist in limiting the repair and/or replacement work included in an application to the minimum work necessary. In addition, Education Code Section 17588(a) allows the SAB to require a district contribution above the maximum basic grant and State matching share.

Technical Documents Relied Upon

None.

Section 1866.5.3. Project Priorities Due to Insufficient State Funds.**Specific Purpose of the Regulation**

To: 1) redefine what constitutes a priority one critical hardship project, 2) specify the necessary language to be included in a district's governing board resolution when requesting priority one status, and 3) incorporate a process for projects placed and funded from the unfunded list.

Need for the Regulation

It was necessary to revise the project priorities in order to provide funding equality to all school districts. These amendments will allow school districts an opportunity to compete for funding based on when the complete application was submitted and accepted by the OPSC rather than the type of project the district was applying for. All projects have demonstrated to the SAB that they meet either the health and safety or structural tests set forth in Education Code. Thus, one type of project should not be funded over another project.

It was also necessary to incorporate a process by which a project gets placed and funded from the unfunded list. This process is practiced under the existing SFP administered by the OPSC. By funding in the order the date the complete application was received and accepted by the OPSC rather than SAB approval date order, additional projects will get funded because the funding line will extend down further.

Technical Documents Relied Upon

None.

Section 1866.5.4. Reimbursement.**Specific Purpose of the Regulation**

This section sets forth the process for reimbursement of expenditures and requires OPSC approval of the project prior to incurring construction costs.

Need for the Regulation

It was necessary to ensure that all projects meet the requirements for an Extreme Hardship Grant set in law.

Technical Documents Relied Upon

None.

Section 1866.5.5. Permissible Uses of Extreme Hardship Grant Funds.**Specific Purpose of the Regulation**

To explain the uses of the Extreme Hardship Grant apportionment.

Need for the Regulation

It was necessary to provide school districts specific instructions relating to the uses of the Extreme Hardship Grant apportionment. This will ensure that school districts are in compliance with law and regulation.

Technical Documents Relied Upon

None.

Section 1866.5.6. Ongoing Project Cost Increase.**Specific Purpose of the Regulation**

To specify the conditions by which school districts may receive an increase in funding for ongoing project costs.

Need for the Regulation

It was necessary to add this section so school districts could request a funding increase related to specific ongoing project costs. By establishing these conditions, school districts cannot manipulate the law or regulation.

Technical Documents Relied Upon

None.

Section 1866.5.7. Release of State Funds.**Specific Purpose of the Regulation**

To provide direction to school districts regarding the release of funds.

Need for the Regulation

It was necessary to incorporate this section by requiring school districts to submit supporting documentation prior to the release of State funds. By requesting this information upfront, the OPSC will be aware of project cost increases earlier in the process and it will ensure that projects are in compliance with the Public Contract Code. Further, by giving the control of the release of funds to the school districts, the one year time limit on apportionment will more likely be met.

Technical Documents Relied Upon

None.

Section 1866.5.8. Progress Report and Time Limit on Extreme Hardship Grant Apportionment.**Specific Purpose of the Regulation**

To establish the criteria for ensuring project completion or progress on the project for districts that have received extreme hardship grant apportionments.

Need for the Regulation

It was necessary to implement this section in order to assist both the school districts and the State that projects are being completed within one year of apportionment. It was also necessary to establish criteria for those projects that were not completed within the one year timeframe, and to develop a process by which projects, under certain circumstances, would be subject to the decision of the SAB.

Technical Documents Relied Upon

None.

Section 1866.5.9. Exemptions to District Contribution.**Specific Purpose of the Regulation**

To specify that an exemption will be provided when determining a district's contribution if the removal of an underground toxic tank cannot be funded by any other source.

Need for the Regulation

It was necessary to exempt the removal costs of an underground toxic tank from the total cost of a project if it cannot be funded from any other source because those costs are extensive and are unknown until it is deemed a "clean" site.

Technical Documents Relied Upon

None.

Section 1866.6. Method of Payment to School District.**Specific Purpose of the Regulation**

To repeal this section.

Need for the Regulation

It was necessary to delete this section as this process is no longer a valid process under the DMP.

Technical Documents Relied Upon

None.

Section 1866.7. Control of Expenditures.**Specific Purpose of the Regulation**

To make non-substantive changes.

Need for the Regulation

It was necessary to make non-substantive changes to reflect the correct renumbered Education Code sections. These amendments do not change the intent of the section.

Technical Documents Relied Upon

None.

Section 1866.8. Expenditures by Districts Subject to Public Contract Code.**Specific Purpose of the Regulation**

To provide clarification that the expenditures made by a district must be in compliance with the Public Contract Code, and provide specificity with regard to awarding emergency contracts.

Need for the Regulation

It was necessary to provide further clarification regarding expenditures made by school districts to ensure compliance with the Public Contract Code. In addition, it was necessary to place school districts on notice that emergency contracts must be awarded in accordance with a specific section of the Public Contract Code.

Technical Documents Relied Upon

None.

Section 1866.9. Program Reporting Requirements.**Specific Purpose of the Regulation**

To provide direction to school districts that have received funding and specifies a timeline to submit an expenditure report after funds have been released, and to delete existing language.

Need for the Regulation

It was necessary to make this change in order to provide consistency and to ensure that expenditure reports were submitted to the OPSC in a timely fashion for audit purposes. It was also necessary to delete existing language, as it no longer pertains to this section.

Technical Documents Relied Upon

None.

Section 1866.9.1. Expenditure Audit.**Specific Purpose of the Regulation**

Provides an expenditure audit process and specifies a timeframe when the audit will commence and be completed.

Need for the Regulation

Currently, there are no timelines in place for the OPSC to audit critical hardship projects. It was necessary to establish timelines to ensure that the OPSC is auditing expenditures within an appropriate time timeframe and that projects are completed in a timely manner. Further, it was necessary to remind school districts to maintain all supporting

documentation pertaining to all costs associated with the extreme hardship grant apportionment in case of discrepancies.

Technical Documents Relied Upon

None.

Section 1866.10. Limitation of State Responsibility.**Specific Purpose of the Regulation**

To reflect a non-substantive change.

Need for the Regulation

It was necessary to renumber the reference sections to the correct Education Code sections.

Technical Documents Relied Upon

None.

Section 1866.12. Earned Interest on DMP Grants.**Specific Purpose of the Regulation**

To explain the conditions of how earned interest on DMP grants funds will be treated.

Need for the Regulation

It was necessary to set forth the conditions of how earned interest will be treated in terms of application towards the district match, eligible project costs, or returning the interest to the State.

Technical Documents Relied Upon

None.

Section 1866.13. Duplication of Applications.**Specific Purpose of the Regulation**

To specify that work listed on the *Five Year Plan* shall not be duplicated under existing programs administered by the OPSC.

Need for the Regulation

It was necessary to stipulate that work listed on the *Five Year Plan* that has been submitted and funded under existing programs (SFP and Federal Renovation Program) shall require school districts to revise and resubmit the *Five Year Plan* reflecting the

removal of the work. This prevents school districts from obtaining additional funding for duplicated work.

Technical Documents Relied Upon

None.

Section 1866.14. Amending and Withdrawal of Extreme Hardship Funding Applications.

Specific Purpose of the Regulation

To specify that funding applications submitted to the OPSC may not be amended to increase the scope of a project without SAB approval to do so.

Need for the Regulation

It was necessary to ensure equity to all applicant districts that have submitted or not yet filed applications, and not disadvantage other applications on the DMP workload list. Further, this concept is current practice under the SFP.

Technical Documents Relied Upon

None.

Alternatives to the Proposed Regulatory Actions that would be as effective and Less Burdensome to Private Persons

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations.

Alternatives to the Proposed Regulatory Actions that would Lessen any Adverse Economic Impact on Small Business

The SAB determined that the proposed regulations do not affect small businesses.

Finding of No Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the regulations will not affect small businesses because they are not required to comply with or enforce the regulations, nor will they benefit from or be disadvantaged by the regulations.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.